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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 MICHAEL L. LOGAN, individually
8 and on behalf of all others similarly
situated,

9 Plaintiffs,

10 v.

11 UNION PACIFIC RAILROAD CO., a
12 Delaware Corporation,

13 Defendant.

14 and

15 GREGORY NEAL GONZALES,
16 individually and on behalf of all others
similarly situated,

17 Plaintiffs,

18 v.

19 BNSF RAILWAY COMPANY,

20 Defendant.

NO: 2:17-CV-0394-TOR

ORDER GRANTING DEFENDANTS'
MOTION FOR JUDGMENT ON THE
PLEADINGS AND MOTION FOR
JUDICIAL NOTICE

BEFORE THE COURT is Defendants BNSF and Union Pacific's Motion for Judgment on the Pleadings (ECF No. 35) and a corresponding Motion for Judicial Notice (ECF No. 36). This matter was submitted for consideration with oral argument and a telephonic hearing was held on June 7, 2018. The Court has reviewed the record and files herein, and is fully informed. For the reasons discussed below, Defendants' Motion for Judgment on the Pleadings (ECF No. 35) and Motion for Judicial Notice (ECF No. 36) are **granted**.

BACKGROUND

Plaintiffs Michael Logan and Gregory Gonzales, personally, and on behalf of others similarly situated, brought separate suits against Union Pacific Railroad Company and BNSF Railway Company, respectively. Case Nos. 4:17-CV-5193; 2:17-CV-0394-TOR. The Court consolidated the two cases, finding both cases involve identical issues of law and nearly identical issues of fact. Case Nos. 4:17-CV-5193, ECF No. 30; 2:17-CV-0394-TOR, ECF No. 30 at 4. In both suits Plaintiffs allege that Defendants failed to provide ten-minute rest periods to employees for every four hours of work as required by Washington Administrative Code § 296-126-092, and thus conclude Defendants must pay hourly and separate wages for the missed rest periods pursuant to Title 49, Chapter 12 of the Revised Code of Washington. Case Nos. 4:17-CV-5193, ECF No. 1-1 at 9-14, ¶¶ 12, 25-38; 2:17-CV-0394-TOR, ECF No. 1-1 at ¶¶ 1, 24-37.

1 Defendants filed a Motion for Judicial Notice (ECF No. 36) and a Motion
2 for Judgment on the Pleadings (ECF No. 35), arguing the state law requiring rest
3 periods is preempted by federal law as applied to railroad employees. Plaintiffs
4 oppose the Motion. ECF No. 38. This Motion is now before the Court.

5 REQUEST FOR JUDICIAL NOTICE

6 Defendants request the Court take judicial notice pursuant to Federal Rule of
7 Evidence 201 of:

- 8 1. Order entered on April 10, 2018 in *Sumlin v. BNSF Railway Company*,
9 5:17-CV-2364-JFW (KKx) (C.D. Cal. 2018), publicly available on the
10 court's docket at entry number 66.
- 11 2. The Federal Railroad Administration's *Hours of Service Compliance*
12 *Manual—Freight Operations* (Dec. 2013), publicly available on the
13 website of the United States Department of Transportation at
14 <https://www.fra.dot.gov/eLib/details/L04876>.
- 15 3. The Federal Railroad Administration's *Operating Practices Compliance*
16 *Manual* (Nov. 2012), publicly available on the website of the United
17 States Department of Transportation at
18 www.fra.dot.gov/eLib/details/L04093.
- 19 4. The Federal Railroad Administration's *Hours of Service Compliance*
20 *Manual—Freight Operations* (Dec. 2013), publicly available on the
website of the United States Department of Transportation at
www.fra.dot.gov/eLib/details/L04876.
5. The Federal Railroad Administration's *Operating Practices Compliance*
Manual (Nov. 2012), publicly available on the website of the United
States Department of Transportation at
www.fra.dot.gov/eLib/details/L04093.
6. The Washington State Department of Labor & Industries' web page
entitled *Rest & Meal Periods: What Are the Rest Break and Meal Period*
Requirements for Adult Workers?, publicly available on the website of
the Washington State Department of Labor & Industries at
<https://www.lni.wa.gov/WorkplaceRights/Wages/HoursBreaks/Breaks/>.

1 ECF No. 36 at 2. At the hearing, Plaintiffs stated they did not oppose the Motion
2 for Judicial Notice, but dispute the precedential effect of the district court opinion.

3 Pursuant to Federal Rule of Evidence 201, “[a] court shall take judicial
4 notice if requested by a party and supplied with the necessary information.” Fed.
5 R. Evid. 201(d). “A judicially noticed fact must be one not subject to reasonable
6 dispute in that it is . . . capable of accurate and ready determination by resort to
7 sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b).
8 Judicial notice is appropriate for “materials incorporated into the complaint or
9 matters of public record.” *Coto Settlement v. Eisenberg*, 593 F.3d 1031, 1038 (9th
10 Cir. 2010); *see also Reyn’s Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746
11 n.6 (9th Cir. 2006) (“We may take judicial notice of court filings and other matters
12 of public record”). On motions for judgment on the pleadings, a court may take
13 judicial notice of records and reports of administrative bodies. *United States v.*
14 *14.02 Acres of Land More or Less in Fresno Cty.*, 547 F.3d 943, 955 (9th Cir.
15 2008) (quotation marks and citation omitted). Accordingly, the Court **grants**
16 Defendant’s request for judicial notice (ECF No. 36).

17 DISCUSSION

18 Defendants argue the Washington law regulating rest-periods is preempted
19 by federal law as applied to railroad employees. Defendants put forward three
20 arguments in favor of preemption. First, Defendants argue the rest-period claims

1 are barred by field preemption, reasoning federal law occupies the field of hours of
2 work and rest for railroad employees, and that Washington's rest-period laws
3 intrude into this field. ECF No. 35 at 11-17. Second, Defendants argue the
4 Federal Railroad Safety Act (FRSA) expressly preempts Plaintiffs' rest-period
5 claims because the Washington law relates to railroad safety as applied to
6 railroads. ECF No. 35 at 22-26. Third, Defendants argue the Adamson Act
7 preempts Plaintiffs' rest-period claims because the Washington law mandates
8 additional compensation where federal law expressly provides that all matters of
9 compensation are settled exclusively by statute and private negotiations. ECF No.
10 35 at 27-28. The Court agrees and addresses each argument in turn.

11 **A. Field Preemption**

12 Defendants contend that Plaintiffs' rest-period claims are barred by field
13 preemption. ECF No. 35 at 17-27. Defendants argue that federal law – namely,
14 the federal Hours of Service Act (HSA) – occupies the field of hours of work and
15 rest for railroad employees and Washington's law improperly intrudes into this
16 field. Plaintiffs argue Washington's rest-period laws are not preempted because
17 (1) the Washington rest-period laws are written in general terms, in contrast to a
18 law that expressly regulates the railroad or its employees and (2) federal law only
19 occupies rest periods before and after work periods, whereas the Washington law
20 only regulates rest periods during a work period.

1 “The relative supremacy of the state and national power over interstate
2 commerce need not be commented upon. Where there is conflict, the state
3 legislation must give way. Indeed, when Congress acts in such a way as to
4 manifest its purpose to exercise its constitutional authority, the regulating power of
5 the state ceases to exist.” *Erie R. Co. v. People of State of New York*, 233 U.S.
6 671, 681 (1914). Under “field” preemption, state law is preempted “when the
7 scope of a statute indicates that Congress intended federal law to occupy a field
8 exclusively.” *Freightliner Corp. v. Myrick*, 514 U.S. 280, 287 (1995). “Congress’
9 intent to pre-empt all state law in a particular area may be inferred where the
10 scheme of federal regulation is sufficiently comprehensive to make reasonable the
11 inference that Congress ‘left no room’ for supplementary state regulation.”
12 *Hillsborough Cty., Fla. v. Automated Med. Labs., Inc.*, 471 U.S. 707, 713 (1985).
13 “[T]he mere volume and complexity of federal regulations demonstrate an implicit
14 congressional intent to displace all state law.” *Silvas v. E*Trade Mortg. Corp.*,
15 514 F.3d 1001, 1004 (9th Cir. 2008).

16 “It has long been settled that Congress intended federal law to occupy the
17 field of locomotive equipment and safety[.]” *Law v. Gen. Motors Corp.*, 114 F.3d
18 908, 910 (9th Cir. 1997). “Railroads have been subject to comprehensive federal
19 regulation for nearly a century.” *United Transp. Union v. Long Island R.R.*
20 *Co.*, 455 U.S. 678, 687 (1982), overruled on other grounds by *Garcia v. San*

1 *Antonio Metro. Trans. Auth.*, 469 U.S. 528 (1985). Indeed, “[p]erhaps no industry
2 has a longer history of pervasive federal regulation than the railroad
3 industry.” *R.J. Corman R.R. Co./Memphis Line v. Palmore*, 999 F.2d 149, 151
4 (6th Cir. 1993) (citation omitted). “Without doubt, Congress has undertaken the
5 regulation of almost all aspects of the railroad industry, including rates, safety,
6 labor relations, and worker conditions.” *Id.* at 152. “These laws have touched on
7 nearly every aspect of the railway industry, including property rights,
8 shipping, labor relations, hours of work, safety, security, retirement,
9 unemployment, and preserving the railroads during financial difficulties”
10 *Wisconsin Cent., Ltd. v. Shannon*, 539 F.3d 751, 762 (7th Cir. 2008) (citing *R.J.*
11 *Cormann R. Co.*, 999 F.2d at 151-52). “[M]uch of this federal legislation has been
12 found to preclude state regulation over the railways.” *Id.* at 763.

13 Of particular importance to this case is the HSA, which authorizes the
14 Secretary to prescribe regulations “to reduce the maximum hours an employee may
15 be required or allowed to go or remain on duty”, “to increase the minimum hours
16 an employee may be required or allowed to rest”, and “to require other changes to
17 railroad operating and scheduling practices . . . that could affect employee fatigue
18 and railroad safety[,]” *inter alia*. 49 U.S.C. § 21109(a). The HSA provides that
19 “[t]he number of hours established by this chapter that an employee may be
20 required or allowed to be on duty is the maximum number of hours consistent with

1 safety. Shorter hours of service and time on duty of an employee are proper
2 subjects for collective bargaining between a railroad carrier and its employees.” 49
3 U.S.C. § 21107. As the Federal Railroad Administration (“FRA”) has explained,
4 the “[f]ederal laws governing railroad employees’ hours of service . . . are intended
5 to promote safe railroad operations by limiting the hours of service of certain
6 railroad employees and ensuring that they receive adequate opportunities for rest in
7 the course of performing their duties.” 74 Fed. Reg. at 25,330.

8 In *N. Pac. Ry. Co. v. State of Washington ex rel. Atkinson*, 222 U.S. 370, 376
9 (1912), the Supreme Court held the HSA preempted “a law of the state of
10 Washington regulating the hours of service[.]” Although the Court did not go
11 “into detail[.]” the Court noted that it “suffices to say that the provisions of that act
12 greatly resembled those of the act of Congress, and prohibited the consecutive
13 hours of service which had taken place[.]” *Id.* In deciding, the Supreme Court
14 recounted the source of the legislature’s power and the preemptive reach when it
15 acts:

16 [T]he power of the Congress to regulate interstate commerce is plenary; and
17 that, as an incident to this power, the Congress may regulate by legislation
18 the instrumentalities engaged in the business, and may prescribe the number
19 of consecutive hours an employee of a carrier so engaged shall be required
20 to remain on duty; and that when it does legislate upon the subject, its act
supersedes any and all state legislation on that particular subject.”

1 *Id.* at 377. The Court then concluded: “as the enactment by Congress of the [HSA]
2 was an assertion of its power, by the fact alone of such manifestation that subject
3 was at once removed from the sphere of the operation of the authority of the state.”

4 *Id.* at 378.

5 Just two years later, in *Erie R. Co. v. People of State of New York*, the
6 Supreme Court held the HSA preempted a New York law purporting to limit
7 railroad employees to an eight-hour work day where the HSA allowed railroad
8 employees to work a nine-hour work day or longer in certain circumstances. 233
9 U.S. at 678, 683. In deciding, the Court recognized the HSA is Congress’s
10 judgment on what is necessary for safety and this judgment “admits of no
11 supplement”:

12 Regulation is not intended to be a mere wanton exercise of power. It is a
13 restriction upon the management of the railroads. It is induced by the public
14 interest or safety, and the ‘hours of service’ law of March 4, 1907, is the
15 judgment of Congress of the extent of the restriction necessary. It admits of
no supplement; it is the prescribed measure of what is necessary and
sufficient for the public safety, and of the cost and burden which the railroad
must endure to secure it.

16 *Id.*, 233 U.S. at 683.

17 The Court finds that (1) the HSA occupies the field of hours of work and rest
18 for railroad employees and (2) Washington’s regulation of work hours requiring a
19 ten-minute rest period improperly intrudes upon this domain. The exhaustive
20 federal regulation of work and rest periods demonstrates that federal law occupies

1 the field of rest and work periods for railroad employees, precluding state
2 regulation of such. *See S. Ry. Co.*, 236 U.S. 439, 447 (1915) (“[C]ongressional
3 legislation as to hours of service so completely occupie[s] the field as to prevent
4 state legislation on that subject.”). It is clear that the Washington law at issue
5 implicates this field and is thus preempted, as it attempts to regulate the rest and
6 work periods of railroad employees.

7 Plaintiffs argue the Washington law falls outside the field of “hours of work
8 and rest for railroad employees[.]” ECF No. 38 at 13. The Court does not agree.
9 The Washington law mandating rest-periods clearly regulates the hours of work
10 and rest for railroad employees. Plaintiffs argue the Washington “***Rest Break***
11 ***Regulation . . . is [not] a regulation relating to the ‘hours of work and rest of***
12 ***railroad employees.’*” ECF No. 38 at 8 (emphasis added). Ironically, Plaintiffs’**
13 own words demonstrate the opposite point. Plaintiffs’ argument that the
14 Washington law is not preempted because the federal law does not regulate rest
15 periods *during* work periods is similarly unavailing. The federal law specifically
16 regulates *consecutive* hours of work, *see* 49 U.S.C. § 20156(3)(H), which
17 necessarily implicates rest periods during the period of work.

18 Contrary to Plaintiffs’ assertion otherwise, the case of *Erie* dictate this end.
19 Plaintiffs attempt to distinguish *Erie* by arguing the regulation in *Erie* directly
20 targeted railroad employees, while the Washington law is of general applicability,

1 ECF No. 38 at 12, but this distinction is of not import here. *See Morales v. Trans*
2 *World Airlines, Inc.*, 504 U.S. 374, 386 (1992) (“this notion” would create “an
3 utterly irrational loophole” and “ignores the sweep of the ‘relating to’ language” in
4 the statute). Whether or not a regulation specifically calls for regulation of railroad
5 employees or does so generally, the effect is the same, and so is the result with
6 respect to federal preemption. Otherwise, states could avoid field preemption by
7 merely writing laws of general applicability, despite their application to railroad
8 employees. This form over substance argument fails.

9 Plaintiffs also argue the regulation at issue here is materially different than
10 in *Erie*, but this is not the case. In *Erie*, the law at issue limited railroad employees
11 to an eight-hour work day. As in *Erie*, the Washington law limits the time an
12 employee can be required to work given any four-hour work period. Both laws
13 purport to limit the hours a railroad employee can work consecutively within a
14 specific timeframe. Accordingly, *Erie* is controlling and the Washington law at
15 issue is preempted by federal law as applied to railroad employees.

16 Plaintiffs otherwise argue that Defendants “ignore that Courts and federal
17 agencies have rejected virtually identical preemption arguments advanced by the
18 trucking and airline industries,” EF No. 38 at 8, but the cases cited involve federal
19 laws that did not regulate hours of work and the rail industry is clearly
20 distinguishable from the trucking and airline industry given Congress’ thorough

1 regulation of the railways and the material difference in the preemptive scope at
2 issue in those cases.¹ Plaintiffs other arguments are similarly unavailing.

3 B. Express Preemption

4 Defendants argue the Washington rest period laws are expressly preempted
5 by the FRSA (which incorporates the HSA²). Specifically, Defendants argue that
6 “[e]xpress preemption applies under § 20106 because worker rest is ‘related to
7 railroad safety.’” ECF No. 35 at 29. Plaintiffs argue the Washington law is not
8 related to railroad safety, but rather concerns “workplace conditions and wages”
9 (ECF No. 38 at 23), and is thus not preempted by the FRSA.

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11
12 ¹ Plaintiffs’ reference to *Dilts v. Penske Logistics, LLC* is unpersuasive, as that
13 case is easily distinguishable because the meal and rest break laws at issue there
14 clearly did not relate to prices, routes, or services – the preemptive scope of the
15 Federal Aviation Authorization Administration Act (FAAAA). 769 F.3d 637, 647
16 (9th Cir. 2014). Moreover, the text of the FAAAA’s preemption clause includes a
17 broad exception, expressly permitting states to regulate various aspects of motor
18 carriers, including safety. 49 U.S.C. § 14501(c)(2).

19 ² In 1994, the HSA and other railroad safety laws were merged into the FRSA.
20 Pub. L. No. 103-272, § 6(a), 108 Stat. 1378; H.R. Rep. 103-180 (1993).

1. Preemptive Reach

State laws may be preempted where Congress “define[s] explicitly the extent to which its enactments pre-empt state law.” *English v. General Electric Co.*, 496 U.S. 72, 78 (1990). “[P]re-emption will lie only if the federal regulations substantially subsume the subject matter of the relevant state law.” *Union Pacific R.R. Co. v. Cal. Pub. Util. Comm’n*, 346 F.3d 851, 865 (9th Cir. 2003) (citations omitted). The FRSA “promote[s] safety in every area of railroad operations,” 49 U.S.C. § 20101, and authorizes the Secretary of Transportation to “prescribe regulations and issue orders for every area of railroad safety,” 49 U.S.C. § 20103(a). The FRSA includes an express preemption provision; the FRSA “requires that ‘laws, rules, regulations, orders, and standards, relating to railroad safety shall be nationally uniform to the extent practicable,’ and provides that a state may regulate railroad safety only to the extent no federal action has been taken ‘covering the subject matter’ of the state regulation.” *Burlington N. R. Co. v. State of Mont.*, 880 F.2d 1104, 1105 (9th Cir. 1989) (quoting 45 U.S.C. § 434 (1982)).

As discussed above, there is extensive federal regulation governing work and rest periods. This regulation serves the important end of “improve[ing] safety and reduc[ing] employee fatigue.” 49 U.S.C. § 21109(a); *see* S. Rep. No. 110-270, at 9 (2008) (federal hours of service laws are intended to “reduce incidents of

1 fatigue-related accidents, injuries, and fatalities.”); 74 Fed. Reg. at 25,330 (the
2 HSA is “intended to promote safe railroad operations by limiting the hours of
3 service of certain railroad employees”). This is the same subject matter the
4 Washington law attempts to regulate, as the Washington Supreme Court has
5 recognized that the state’s rest period laws are related to employee safety, health,
6 and welfare. *Wingert v. Yellow Freight Sys., Inc.*, 146 Wash.2d 841, 847 (2002)
7 (“The provisions of chapter 296–126 WAC . . . contain labor standards for the
8 protection of employees’ safety, health, and welfare . . .”). Plaintiffs’
9 characterization of the Washington rest break regulation as regulating “workplace
10 conditions and wages” as opposed to a regulation related to railroad safety is
11 unpersuasive.³ Accordingly, the Washington law at issue falls within the express
12 preemptive reach of the FRSA as applied to railroad employees.

13
14 ³ Plaintiffs point to the definition of “Conditions of Labor,” Rev. Code. Wash.
15 § 49.12.005(5) (also found at Wash. Admin. Code § 296-126-002(9)), and argue
16 this definition demonstrates the rest-period regulation is not related to safety. ECF
17 No. 38 at 10. Plaintiffs are not correct. The definition does not state the rest-
18 period is not related to safety, but merely states that the definition of “conditions of
19 labor” used in that piece of legislation does not refer to “conditions of labor
20 otherwise governed by statutes and rules and regulations relating to industrial

1 Plaintiffs argue the Washington law is not “related to railroad safety.”
2 Plaintiffs argue the law is not ““related to railroads’ at all, but is instead generally
3 applicable to all employers and employees in Washington.” ECF No. 38 at 16. As
4 with Plaintiffs’ argument above, whether a regulation specifically identifies the
5 railroad industry is not determinative of whether the regulation is preempted. The
6 term “related to” is very broad, evidencing Congressional intent to establish a
7 broad preemptive reach. While the law at issue does not expressly target railroad
8 employees, the law does, in fact, relate to railroad safety by regulating the hours of
9 work and rest periods “for the protection of employees’ safety, health, and welfare
10” *Wingert*, 146 Wash.2d at 847.

11 Plaintiffs nonsensically argue nothing suggests that the FRSA intended to
12 deal with individual employee welfare, but rather the safety of the rails and cars of
13 the railroad. ECF No. 38 at 24. Plaintiffs contend that “Washington’s Rest Break

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16 safety and health administered by the department.” Rev. Code. Wash. §
17 49.12.005(5) (emphasis added); Wash. Admin. Code § 296-126-002(9) (same).
18 This undermines Plaintiffs proposed dichotomy of conditions of labor and safety
19 regulations, as it refers to *other* safety regulations as conditions of labor. In any
20 event, the label ascribed to a regulation is not dispositive when determining the
reach of an express preemption clause.

1 Regulation is not reasonably related to the safe movement and operation of rail
2 equipment, and therefore does not invade the field that the FRSA intended: railroad
3 safety.” ECF No. 38 at 25. Quite the opposite is true, Congress’ declared purpose
4 for the FRSA was to both reduce “deaths and injuries to persons” and the reduction
5 of property damage.

6 2. Savings Clause

7 Section 20106 contains a “savings clause,” which provides that “[a] State
8 may adopt or continue in force a law, regulation, or order related to railroad safety
9 . . . until the Secretary of Transportation . . . prescribes a regulation or issues an
10 order covering the subject matter of the State requirement.” 49 U.S.C. §
11 20106(a)(2). It further provides that a state may continue in force a “more
12 stringent” regulation that is “necessary to eliminate or reduce an essentially local
13 safety . . . hazard” so long as the state law is “not incompatible” with federal law
14 and does not “unreasonably burden interstate commerce.” *Id.* Plaintiffs have not
15 argued the exceptions apply. Even if the issue were raised, as Defendants correctly
16 note, the first exception does not apply because the FRA has issued a wide range of
17 “regulations” and “orders” on the subject of employee hours of work and rest.
18 ECF No. 35 at 31; *see* 49 C.F.R. Part 228, App. A. The second exception also
19 does not apply, as the Washington law is not aimed at alleviating an essentially
20 local safety hazard.

1 **C. Adamson Act**

2 Defendants argue the Washington law at issue is preempted by the Adamson
3 Act. Defendants reason that, even if Defendants were required to provide rest
4 periods under state law, Plaintiffs’ claims for additional wage compensation for
5 such rest periods would still be preempted by the Adamson Act because “Plaintiffs
6 are claiming that Washington state law obligates Defendants to pay *additional*
7 wages, over and above what has been collectively bargained.” ECF No. 35 at 35
8 (emphasis in original).

9 In 1916, Congress passed the Adamson Act, which established the eight-
10 hour work day for determining the compensation for railroad employees, while
11 leaving the amount and other details of compensation to private negotiations.
12 Adamson Act of 1916, 39 Stat. 721 (codified as amended at 49 U.S.C. § 28301).
13 “Congress’s aim in enacting the Adamson Act [] was to provide a uniform
14 workday for railroad employees, yet leave the amount of compensation to labor
15 agreements.” *R.J. Corman R.R. Co./Memphis Line v. Palmore*, 999 F.2d 149, 153
16 (6th Cir. 1993) (citing *Wilson v. New*, 243 U.S. 332, 345–46 (1917) (The Adamson
17 Act leaves “employers and employees free as to the subject of wages to govern
18 their relations by their own agreements”); see *Wisconsin Cent., Ltd. v.*
19 *Shannon*, 539 F.3d 751, 765 (7th Cir. 2008) (“Congress’s intent to leave the matter
20 of wages subject to private negotiations, as articulated by the Court in *Wilson* [v.

1 New], particularly when placed against the backdrop of Congress’s pervasive
2 regulation of the railways and its clear intent that much of this regulation allow for
3 no state supplement, leads us to conclude that Illinois’s overtime regulations, as
4 applied to interstate railways, are preempted.”).

5 This regulatory scheme does not make way for the state regulation at issue.
6 Washington’s law on work and rest periods purports to regulate compensation – a
7 matter reserved to statute and private negotiations – by mandating pay for missed
8 rest breaks. This requires the employer to provide additional compensation for
9 missed rest breaks outside of private negotiations. The Court thus finds the
10 Adamson Act preempts the Washington law on work and rest periods as applied to
11 the railroad industry.

12 Plaintiffs attempt to avoid the Adamson Act preemption by arguing the
13 “Adamson Act only has preemptive force in the context of *compensation for work*
14 (especially overtime work) for railway employees[,]” and that the “Adamson Act,
15 by its own terms, does not speak to the issue of rest breaks during the work day[.]”
16 ECF No. 38 at 36 (emphasis in original). This argument ignores the fact that the
17 Washington law forces the employer to compensate employees for missed rest
18 breaks. This is compensation for work or at least time on the clock and thus falls
19 under the preemptive reach of the Adamson Act, as Plaintiffs concede.

20 //

1 **CONCLUSION**

2 Washington's law requiring rest periods as applied to railroad employees is
3 preempted by federal law. Holding otherwise would allow the states to create a
4 patchwork of laws regulating work and rest hours that could, in effect, cripple the
5 way the railroad industry runs or otherwise circumvent the comprehensive
6 framework for determining wages.

7 **ACCORDINGLY, IT IS HEREBY ORDERED:**

8 1. Defendants' Motion for Judgment on the Pleadings (ECF No. 35) is

9 **GRANTED.**

10 2. Defendants' (unopposed) Request for Judicial Notice (ECF No. 36) is

11 **GRANTED.**

12 3. All remaining deadlines, hearings, and trial are **VACATED.**

13 The District Court Clerk is directed to enter this Order, provide copies to
14 counsel, enter judgment for Defendants and close the file.

15 DATED June 13, 2018.



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A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE
Chief United States District Judge